

John Rawls, 1921-2002: A Chastened but not Trivial Liberalism

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It is not always easy fully to appreciate the influence John Rawls has had on political philosophy. A conceptual landscape comprised of the language of human rights, social justice and the basis of political authority has become so familiar to us that it is hard to imagine a world substantially different. Yet things were very different not so long ago. And it was Rawls's intervention that was largely responsible for ushering in the era in which we currently find ourselves. Rawls's work served to revitalise an intellectually moribund field by establishing a common project of philosophical inquiry. By providing an approach that resonated across disciplinary and methodological boundaries, Rawls single-handedly injected a new energy into normative inquiry and brought a common purpose to a previously fragmented and dispirited field. The major significance of his work was not that it provided incontrovertible answers to imposing questions; Rawls's conclusions did not command universal assent. What gave his work far-reaching impact was its ability to provide a compelling way of thinking about the pressing concerns faced by modern liberal societies. Rawls's synthesis of different philosophical traditions within a single framework gave powerful impetus to the emergence of a common disciplinary discourse on these issues. Specifically, Rawls provided a framework to consider the principles that would have to be embodied in political institutions to elicit the willing cooperation of persons within societies deeply divided on moral, religious and philosophical grounds. Rawls's ability to tap into current philosophical and political predilections in posing this question ensured that he made a deep and enduring impression on theoretical debate. As Robert Nozick, one of Rawls's most prominent critics, aptly put it, 'political philosophers now must either work within Rawls' theory or explain why not'.¹

Rawls's impact is best understood by considering the state of moral and political philosophy prior to the publication of his first book, *A Theory of Justice*, in 1971.² In many respects the field was in poor shape. Much of the work in

the area, particularly within Anglo-American philosophy, was influenced by the methodological assumptions of logical positivism. Theorists tended to share the positivistic contention that because moral propositions were incapable of consistent replication they could not be subjects of scientific inquiry. Normative questions were therefore generally frowned upon because of their alleged lack of scientific rigour. Dismissing the historical tradition of Aristotle, Hobbes, Hume, Rousseau and Kant, theorists instead directed their attention toward empirical investigations of matters of fact and analysis of the logical and linguistic coherence of concepts. The philosophical approach that most prospered in this constraining environment was utilitarianism. Its preoccupation with logic and statistical analysis exemplified the narrow scope and aridness that characterised the field as a whole. The arrival of *A Theory of Justice* decisively shattered this status quo. Its call for a return to a Kantian moral theory posed two critical challenges to conventional philosophical thinking.

First, Rawls squarely confronted the positivist notion that intuitive moral convictions could not be usefully examined by philosophy. Rawls argued that, while the nature of human reason prevented incontrovertible conclusions, it did not preclude a meaningful understanding of principles of justice. If we apply the same rules of analysis that we apply elsewhere in philosophical inquiry, Rawls argued, we can arrive at a meaningful, albeit provisional, understanding of what we think is just. Citing Henry Sidgwick in his support, Rawls wrote that moral philosophy should be considered an attempt to state 'in full breadth and clearness those primary intuitions of Reason, by the scientific application of which the common moral thought of mankind may be at once systematized and corrected'.³ By employing a systematic and ongoing process of self-reflection that he called 'reflective equilibrium', philosophy could therefore break out of its self-imposed straitjacket and return to investigating matters of real substance.

Second, Rawls issued a penetrating Kantian critique of utilitarianism. Rawls insisted that any theory of justice had to be premised on the immutable 'separateness of persons'; the idea, in other words, that each individual is a separate life, and a separate centre of moral value. Once we accept this principle, the formula for achieving social welfare proposed by utilitarianism becomes unsustainable. The apparent rationality of determining the well-being of a society on the basis of the sum of the welfare of each individual simply masked the plural experience of individuals. There is no such entity as soci-

ety to experience this aggregate well-being; winners' gains do not outweigh losers' losses, or as Rawls put it, 'Justice denies that the loss of freedom for some is made right by a greater good shared by others'. What we should recognise is that there are simply distinct persons with separate ends whose unique moral status should be the object of a theory of justice. 'Each person possesses an inviolability founded on justice that even the welfare of society as a whole cannot override.'⁴ For Rawls, it was not enough to say of a society that it was doing well on the whole, in the aggregate, or so far as average *per capita* income was concerned. A just society was one that advanced the good of each and every one of its members so that there was no one from whose plight we would have to avert our eyes.

These theoretical challenges opened the way for the field of moral and political philosophy to break out from its depressed state. *A Theory of Justice* offered a sophisticated model for how philosophy could productively apply itself to substantive ethical questions. The painstaking rigour Rawls demonstrated in building his case banished any sense that this return to grand theory involved a regression to any kind of woolly thinking. Analytical philosophers could be satisfied that this was indeed a legitimate line of inquiry that could prove fruitful. In terms of broad political concerns, Rawls's insistence on the moral inviolability of every individual reconnected the field to the growing public discourse of human rights. Rawls provided a theoretical rationale for the postwar resurgence of rights talk initiated by the Universal Declaration of Human Rights. Under Rawls's remit, philosophy could no longer be accused of shying away from the pressing substantive issues - the protection of basic rights, how societies should address inequalities, etc. - that animated political debate.

Rawls's substantive theory followed from this Kantian starting point. If all individuals are considered moral equals, it follows that the social arrangements that govern society should be valid to everyone. Finding common ground, however, is far from easy in any society, given the myriad of differences that distinguish us from each other. How are we likely to come to an agreement on the principles that govern society when our particular circumstances and beliefs will lead us to favour very different arrangements? Someone who is born with exceptional talents, for example, will be likely to favour a system in which rewards are distributed on the basis of merit. Similarly, someone with traditional religious beliefs might support the enforcement of certain moral standards; a position that would be unaccept-

able to a secular liberal committed to individual liberty.

Rawls invoked a deceptively simple device to conceive of how these differences might be overcome. Rather than trying to make fair and sympathetic judgements with full information, Rawls asked us to imagine what principles individuals would agree on if they were placed under what he described as a 'veil of ignorance'. Under these circumstances, individuals would be denied knowledge of their talents, endowments and particular conceptions of the good life in the resulting society. Constrained in this way, Rawls argued that individuals would not be willing to gamble on the advantages or disadvantages that fate might deal them. If they did not know whether they would be winners or losers, intelligent or simpleminded, Christians, Jews, Muslims or atheists, they would only be willing to sign up for arrangements that would protect them whatever happened.

Arguing along these lines, Rawls concluded that parties would insist on a very strong priority for basic liberties because they would not want to risk being put in a situation where a majority prevented the free exercise of a minority culture or belief. Individuals put in this 'original position' would recognise the necessity of individual autonomy to life as free and equal persons, and therefore would readily assent to the protection of individual liberty as an absolute priority. This was Rawls's first principle, that each person should have a right to as much freedom as is compatible with others enjoying the same right.

His second principle claimed that the parties would prefer a distribution of basic goods that would tolerate inequalities only when they raised the level of the least well off. This was egalitarian in the sense that it did not allow inequalities simply on the basis of 'merit' or natural endowment. Rawls argued that, just as it was unfair for someone to be excluded from material rewards on the basis of race or gender, it was also unfair for inequalities in natural talents to determine outcomes. No one deserves to be born handicapped, or with an IQ of 140, and thus natural endowments should not be allowed to determine someone's material fate. Distributive shares should not be influenced by factors that are essentially arbitrary. Instead of allowing individuals to reap the benefits of being born intelligent, for example, we should regard material resources as the product of a cooperative venture in which we all have a stake. Our priority in distributing these resources should be to improve the lot of the least well off. This did not mean that egalitarian outcomes were themselves the goal. Inequalities would be permissible if they

could demonstrate that they produced the best possible outcome for the worst off. For example, doctors could be paid more if it brought about better health care for the poor. Wage differentials could be justified on the basis of providing an incentive for the poor to better themselves. Ultimately, Rawls argued, when forced to think from the perspective of the 'original position', we would recognise that it was not just to allow natural talents, or any other arbitrary trait, to dictate the distribution of resources.

Rawls's use of the 'original position', and the resultant logic he attributed to individuals placed in these circumstances, aroused considerable controversy. Critics, such as Charles Taylor, disputed the usefulness of conceiving individuals as reasoning independently of each other. Moral judgement is not simply a process of *self-reflection* but also a dialogical process by which we integrate, reflect upon, and modify our own ideas with those of people with whom we come into contact. To set up the 'original position' in such atomistic terms simply encourages a self-interested logic in the conclusions that are drawn.⁵

Those that accepted this individualistic premise were not always satisfied with the logic that Rawls imputed to individuals. It was unrealistic, they argued, that individuals would be so risk-averse in their choices. Why would individuals not choose, for example, a society that tolerated wide inequalities but avoided destitution by provision of a welfare safety net. Surely we would be just as likely to behave as moderate risk takers if placed in the 'original position' than as conservative hedge-betters?

Perhaps the deftest assault on Rawls's distributive theory was Nozick's *Anarchy, State and Utopia*. Nozick argued that it was a fallacy to consider society as a cooperative endeavour in which the fruits of one's efforts did not belong to oneself. Resources are not 'common assets', Nozick charged, but the rightful property of individuals. The distribution of resources should be determined by free transfer between rightful owners, not by an overarching mechanism that owners do not assent to. But the force of Nozick's attack was muted by his failure to provide a specific account of the merit of individual ownership. Rawls's perspective, by contrast, seemed to resonate with the prevailing rationale of the postwar welfare state. The outcomes generated by the market seemed so unrelated to individual merit that it appeared perfectly reasonable to impose a distributive mechanism to ensure some degree of fairness in results.

But the interest in Rawls's theory of distributive justice has waned in the face of the ascendancy of neo-liberal political thinking beginning in the 1980s. Increasingly, the relevance of Rawls's work has been seen instead in the light of whether it provides a credible foundation for a political community committed to individual liberty.

On the one hand, Rawls's work has been a subject for the general attack on liberalism that focuses on the difficulties faced in achieving liberal consensus within modern multicultural societies. The key question raised here is whether Rawls's formula for liberal consensus would actually prove stable within a pluralist society in which there are diverse ways of life and forms of culture. Rawls's first principle of justice, the assent of individuals to the principle of maximised individual freedom, is thus put into question. On what basis would individuals be expected to endorse this principle? Would they be expected, having adopted the perspective of free and equal individuals in the 'original position', simply to substitute this liberal creed for their prior moral outlook? To many this seemed an unrealistic requirement for a multicultural society. How could we expect members of certain religious communities, for example, to accept the idea of individual autonomy when it was so inimical to their existing moral outlook?⁶

Whereas these 'multicultural' critics identify problems with the universal applicability of liberal values, other critics have attacked Rawls for not making these common principles robust enough. This particular critique has been given new urgency by a widely shared sense that a culture of individualism, rooted in liberalism itself, has contributed to a breakdown of communal values in modern liberal societies. Motivated by these concerns, many critics have indicted Rawls's theory for failing to generate the type of cohesion necessary for a viable political community.⁷

Rawls acknowledged the force of these arguments and sought to revise his theory in *Political Liberalism*, published in 1993.⁸ Responding to his critics, he accepted that it was untenable to suppose that liberalism would be endorsed as a comprehensive doctrine in which the values of autonomy and individuality would extend into all or most areas of life. Stability required a much looser, non-metaphysical conception that would be hospitable to people who held many different views about the good life. But while individuals did not have to accept an encompassing notion of liberal tolerance, they did have to

accept a 'thin' conception of it. A defence of toleration that rested entirely on pragmatic grounds would not do the job, Rawls insisted. Such a *modus vivendi* - a strategic compromise between contending social groups - would only retain its force as long as the necessary balance of power in society was preserved. If one group gained enough strength so that a policy of intolerance came to seem tempting, the pragmatic argument would provide no reason to resist the temptation.

Rawls's solution steered a course that avoided both this Hobbesian nominalism and an all-encompassing liberal doctrine. Individuals would have to accept the moral appeal of tolerance, but only in regards to the political sphere. Liberal tolerance would have a much greater appeal once it was detached from a broader liberal vision of the good life. People's reasons for accepting the political conception could vary depending on which comprehensive moral doctrine they affirmed. Nonetheless, an overlapping consensus would arise as individuals viewed the political conception as derived from, or congruent with, their other values. Such a *political* liberalism would thus be endorsed as the most reasonable doctrine by individuals whatever their particular comprehensive beliefs. This was a chastened liberalism that attempted to accommodate moral diversity while remaining substantive enough to secure an enduring political association.

Rawls's attempt to make liberalism more accommodating, while retaining its moral core, was bound to draw criticism. Critics who were dissatisfied with the 'thin' liberalism presented by *The Theory of Justice* have been even less happy with the revised theory presented in *Political Liberalism*. Critics have redoubled their efforts to argue that the credibility of a public commitment to individual autonomy in fact requires the support of a comprehensive moral vision. An agnostic stance toward its key principle, they argue, robs liberalism of its essential rationale. As Michael Sandel has pointed out, Rawls's insistence on neutrality has far-reaching, perhaps unwelcome implications for the type of reasoning that is acceptable in the public sphere. The idea of a *political* conception of liberal tolerance prohibits appeal to a comprehensive moral doctrine. For example, gay couples arguing in support of their civil right to marry are prevented from claiming in public debate that their life-style is just as worthy of respect as that of heterosexuals. Instead, their only grounds of defence are that the law should not engage in any moral judgement regarding life-style.⁹

Other critics argue that Rawls's determination to make his liberal doctrine

accommodating and eschew controversy has left it weak in terms of providing reasons for people to act on it. The agnostic commitment to tolerance that characterises political liberalism fails to foster the dispositions and virtues necessary to preserve and strengthen liberal institutions and practices. The appeal to individual autonomy is too weakly formulated. At best, it seems to encourage a hands-off, mind-one's-own-business spirit of tolerance; at worst, it encourages an individualistic emphasis on personal rights and interests. In either case, Rawls's political liberalism seems to be self-defeating, for it lacks the motivational force necessary to inspire people to act as they need to act if liberal societies are to survive and prosper. Hence the justificatory force of political liberalism seems to be at odds with the motivational needs of the theory.¹⁰

But perhaps this is the price we pay for a consensus on liberal values in the modern world. Just as Hugo Grotius and Samuel Pufendorf had seen enough bloodshed caused by moral disagreement in the sixteenth century to countenance a 'thick' moral doctrine, so the experience of totalitarianism in the twentieth century may have warned us of the possible dangers of a more stringent requirement. Burdened by recent history, we may have become jaundiced with the capacity for moral agreement between human beings. But, on the other hand, our familiarity with intractable cultural diversity in modern societies may have made us acutely aware of the immense difficulty in forging a liberal consensus. Rawls's lasting legacy may be his ability to coherently articulate these concerns without falling prey to scepticism. By providing us with a plausible moral basis for liberal institutions without presupposing any controversial or contentious moral outlook, Rawls has left us with grounds for optimism that liberal democracies can actually endure under modern conditions.

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Notes

1. Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), p. 183.
2. John Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1971).
3. *Ibid.*, p. 51.
4. *Ibid.*, p. 28.

5. See, Charles Taylor, 'Cross-Purposes: The Liberal-Communitarian Debate' in *Liberalism and the Moral Life*, ed. Nancy L. Rosenblum (Cambridge, MA: Harvard University Press, 1989), Seyla Benhabib, *Situating the Self: Gender, Community and Postmodernism in Contemporary Ethics* (New York: Routledge, 1992), and Kenneth Baynes, *The Normative Grounds of Social Criticism: Kant, Rawls, and Habermas* (Albany, NY: State University of New York Press, 1992).
6. For examples of this 'multicultural' critique, see, Iris Marion Young, *Justice and the Politics of Difference* (Princeton NJ: Princeton University Press, 1990), and Charles Taylor, *Multiculturalism: Examining the Politics of Recognition* (Princeton, NJ: Princeton University Press, 1992).
7. See, Brian Barry, *The Liberal Theory of Justice* (Oxford: Oxford University Press, 1973), Joseph Raz, *The Morality of Freedom* (Oxford: Oxford University Press, 1986), and William Galston, *Liberal Purposes: Goods, Virtues, and Diversity in the Liberal State* (Cambridge: Cambridge University Press, 1991).
8. John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993).
9. Michael Sandel, 'Political Liberalism' *Harvard Law Review* 107, 1994, pp. 1765-1794.
10. Richard Dagger, *Civic Virtues: Rights, Citizenship, and Republican Liberalism* (Oxford: Oxford University Press, 1997), Stephen Macedo, *Liberal Virtues: Citizenship, Virtue, and Community in Liberal Constitutionalism* (Oxford: Oxford University Press, 1990), and Thomas A. Spragens Jr., *Civic Liberalism: Reflections on Our Democratic Ideals* (New York: Rowman and Littlefield, 1999).